

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1875 OF 2005

Pravin Vishram Thorat ... Applicant

versus

The State of Maharashtra ... Respondent

...

Mr. Nitin Sejpai with Ms. Pooja Bhojne, for the
Applicant.

Mr. V.B. Konde Deshmukh, A.P.P., for the
Respondent.

...

CORAM : A.M.KHANWILKAR, J.

31st March 2005

P.C.:

. Heard Counsel for the parties. Perused the report forwarded by the Judge of the lower Court explaining circumstances as to why the trial has not progressed even after framing of charges on 4th October 2004. From the report, it appears that on every date, one or the other

accused remained absent, which required adjournment of the trial.

. Be that as it may, this bail application is pursued by the Applicant on merits as well as on the ground that the Applicant is in custody since 28th October 1999 and as there is no likelihood of conclusion of the trial in near future, the Applicant ought to be released on bail.

. Insofar as the merits is concerned, it is seen that the dying declaration has been recorded in which the deceased has named accused Pamy and Banya and other two who assaulted him with chopper. Pamy is the nickname of the Applicant, as per the prosecution. In other words, there is direct evidence of dying declaration implicating the Applicant in the commission of the offence, which is a serious one. It is only for this reason that the second ground is pressed vehemently by the Applicant that he is in custody since 28th October 1999 and there is no likelihood of conclusion of the trial in near future. Indeed, it is so, However, having regard

to the seriousness of the offence, that by itself will be no ground for releasing the Applicant on bail. Instead, the trial Court can be directed to finally dispose of the trial in timebound manner, which will meet the ends of justice. From the report of the trial Court, it appears that adjournments have been given on several dates because of absence of one accused or the other on different dates. The trial Court is directed to ensure that the trial proceeds on day to day basis once it commences and if any accused is absent, it may proceed to issue appropriate orders to ensure production of the absentee accused before the Court. In no case, adjournments be granted merely because one or the other accused is absent on the date of hearing. Such a course will ensure early disposal of the trial. As the Applicant, as well as the co-accused, who have been refused bail, are in custody since long, the trial Court shall ensure that the trial is concluded not later than six months from the receipt of this Court.

. Application disposed of on the above terms.

(A.M.KHANWILKAR, J.)